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RECEIVED AND FILED
WITH THE
N.J. BOARD OF DENTISTRY
ON 12-5-07 *DA*

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Deputy Attorney General

STATE OF NEW JERSEY
DEPARTMENT OF LAW & PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
STATE BOARD OF DENTISTRY

In the Matter of the License of)	
)	Administrative Action
)	
ROBERT MALFARA D.M.D.)	CONSENT ORDER
License No. DI 17162)	OF REINSTATEMENT
)	
)	
to Practice Dentistry)	
in the State of New Jersey)	
)	

This matter was opened to the New Jersey State Board of Dentistry ("Board") upon the application of Robert Malfara, D.M.D. ("respondent"), seeking to reinstate his license to practice dentistry. Respondent voluntarily surrendered his license on August 22, 2004 following the Board's receipt of information that respondent had been suspected of using drugs for non-medical or dental purposes; had no records for purchases of controlled dangerous substances ("CDS") as required by federal law; had written numerous prescriptions for CDS to patients without corresponding dental records to indicate those prescriptions were for valid dental or medical reasons; and had abandoned his dental practice.

Pursuant to the 2004 Consent Order of Voluntary Surrender of Licensure, upon an application for reinstatement, respondent was required to demonstrate to the Board that he was capable of discharging the functions of a licensee in a manner consistent with the public's health, safety and welfare, and provide the Board with reports from all mental health professional who had participated in respondent's care and/or treatment. Additionally respondent was required to submit to random urine testing twice a week with results forwarded to the Board.

On April 4, 2007, respondent appeared before the Board requesting reinstatement of his license. Respondent was accompanied by Louis E. Baxter, Sr., M.D., FASAM, Executive Medical Director, Professional Assistance Program. In support of the application for reinstatement, respondent discussed his participation in the Professional Assistance Program. Since April 2006, when he entered the program, respondent has provided weekly urine screens, attended weekly meetings of Alcoholics Anonymous and a Caduceus Group, and has had monthly meetings with a clinical representative of the Professional Assistance Program.

Based on the entire record, the Board has determined that respondent may have his license reinstated subject to the conditions outlined in this order. Respondent appears to be in recovery at this time, however, the Board is keenly aware of respondent's history of relapse and will not tolerate any deviation from the terms of this order. The Board finds that the restrictions placed on respondent's practice by this order are adequate to protect the health and welfare of the public, and that good cause exists for entry of this order:

THEREFORE, IT IS ON THIS 5th DAY OF December, 2007

CONSENTED AND ORDERED:

1. The license of Robert Malfara, D.M.D., to practice dentistry in this State shall be reinstated upon payment of the biennial licensing fee of \$390.00 and demonstration of completion of continuing education hours as required by N.J.A.C. 13:30-8.5.

2. Respondent shall only practice in a group setting with other licensed New Jersey dentists and shall not practice for more than 10 hours a week. Respondent may apply for modification of this restriction not sooner than three months after his return to practice.

3. Respondent shall continue his participation in the Professional Assistance Program (PAP) and shall comply with the recommendations for treatment, including but not limited to:

(a) monthly face-to-face contact with representatives from that program for the first six months following entry of this order;

(b) attendance at support groups, NA or AA, including a Caduceus meeting, at a minimum of three times per week;

(c) urine monitoring not less than once a week for the first year following entry of this order; and

(d) counseling as recommended by the PAP.

4. If respondent discontinues participation with the PAP or fails to comply with the conditions imposed by the program or outlined in this consent order without obtaining approval of the Board and the PAP, he shall be deemed in violation of this Order.

After the period specified in this order, reduction in urine monitoring or the number of required face-to-face meetings with the PAP shall be at the discretion of the Executive Medical Director of the Program with notification to the Executive Director of the State Board of Dentistry.

5. Respondent shall abstain from the use of alcohol and from all psychoactive substances, unless prescribed by a treating physician for a documented medical condition with prior notification to the Executive Medical Director of the PAP of the diagnosis and prescribed medications. In addition, respondent shall advise any and all treating physicians and/or dentists of her history of substance abuse.

6. The PAP shall submit quarterly reports, including urine results, to the Board regarding respondent's participation and compliance with all requirements of the PAP and this order. If respondent has a positive urine, misses an appointment without consent, or has a lapse or slip in her recovery, or if respondent terminates recommended counseling or his participation with the PAP, the PAP shall immediately inform the Board. For purposes of this paragraph, "immediately" shall mean reporting the information orally within 24 hours and following up with a written report within 48 hours.

7. (a) Any failure by respondent to submit or provide a urine sample within twenty-four (24) hours of a request will be deemed to be equivalent to a confirmed positive urine test. In the event respondent is unable to appear for a scheduled urine test or provide a urine sample due to illness or other impossibility, consent to waive that day's test must be secured from the PAP. Respondent shall

notify the PAP if he will be out of the State for any reason, so that the program may make a determination regarding alternate testing.

(b) Any urine test result showing creatinine levels below 20 mg/dL and a specific gravity below 1.003 shall create a rebuttable presumption of a confirmed positive urine test. Any such result shall be followed immediately by a confirming GC/MS test.

(c) Respondent shall familiarize herself with all foods, food additives or other products (such as poppy seeds) which may affect the validity of urine screens, be presumed to possess that knowledge, and shall refrain from the use of such substances. Ingestion of such substances shall not be an acceptable reason for a positive urine screen and/or failure to comply with the urine monitoring program.

(d) The PAP may, after notifying the Board, modify the frequency of testing or method of testing during the monitoring period.

8. Respondent shall provide any and all releases to any and all parties who are participating in a monitoring, treatment, or other program as outlined in this order, as may be required in order that all reports, records, and other pertinent information may be provided to the Board in a timely manner. Respondent agrees that any information received by the Board regarding respondent's treatment or participation in a monitoring program may be used in connection with any proceedings pertaining to his license.

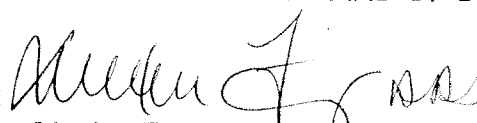
89(a) Respondent shall be subject to an order of automatic suspension of his license upon the Board's receipt of any information which the Board, in its sole discretion, deems reliable demonstrating that respondent has failed to comply with any

of the conditions set forth in this consent order, including but not limited to report of a confirmed positive urine, or a prima facie showing of use of alcohol or drugs.

(b) Respondent shall have a right to apply for removal of the automatic suspension on ten (10) days notice to the Board and to the Attorney General. The Board may hold a hearing on that application before the full Board or before a committee of the Board. In the event a committee hears the application, its action shall be effective immediately and subject to ratification of the full Board at its next scheduled meeting. In a hearing seeking removal of the automatic suspension, any confirmed positive urine shall be presumed valid.

10. Nothing in this order shall be deemed to preclude the Board from taking any action it deems appropriate should the Board's review of information cause it to determine that such action is warranted or from imposing restrictions or conditions on respondent's license should the Board determine that such restrictions or conditions are appropriate to protect the public health, safety, and welfare.

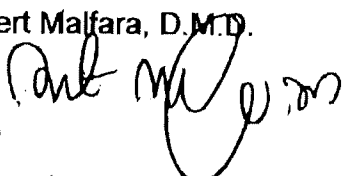
NEW JERSEY STATE BOARD OF DENTISTRY

By: 
Maxine Feinberg, D. D.S.
President

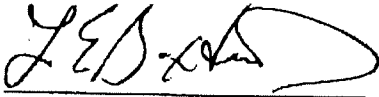
I have read and I understand the terms of this order and agree to be bound by it. I consent to the entry of this order.

Robert Malfara, D.M.D.

Date


12-4-07

I have read the terms of this order and agree on behalf of the Professional Assistance Program to comply with its terms pertaining to the PAP.

A handwritten signature in black ink, appearing to read 'LEB', followed by a large, sweeping flourish that extends to the right.

Louis E. Baxter, Sr., M.D.
Executive Medical Director
Professional Assistance Program

Date